

The Flinn Report

Illinois

Regulation

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Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

Proposed Regulations

✎ EDUCATION GRANTS

The ILLINOIS BOARD OF HIGHER EDUCATION adopted amendments for rules titled "Health Services Education Grants Act" (23 Ill Adm Code 1020), effective 4/5/06. A companion emergency rulemaking became effective 12/7/05. The rulemaking implements Public Act 94-193, which specifies that the Board may annually allocate up to 10% of appropriated funds to support "program priority grants". Such grants are based on State residents enrolled in eligible programs addressing public demand for health services, workforce needs and shortages, and other programmatic priorities (e.g., sole service providers, academic needs, or industry standards). These grants may be awarded in addition to the Illinois Resident Grants and Minority Incentive Grants and must be distributed "at an equal amount within a program and level for each Illinois resident or full-time-equivalent Illinois resident enrollee". The Board also must consult annually with constituent institutions in determining program priority grants. Those affected by this rulemaking include not-for-profit health service educational institutions that desire grants under this program.

Questions/requests for copies: Sandi Gillilan, IBHE, 431 E. Adams St., 2nd Fl., Springfield IL 62701, 217/557-7352.

✎ JOB TRAINING GRANTS

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted an amendment for "High Technology School-to-Work" (14 Ill Adm Code 110), effective 4/10/06, to strike reference to a "competitive" review for grant proposals. A companion emergency rulemaking became effective 11/14/05. According to DCEO, this rule change will allow it to continue a fiscal year 2004 pilot program for "Project Lead-the-Way". Those affected by this rulemaking include entities desiring to receive grants from DCEO to increase the number of high school students entering technology occupations.

Questions/requests for copies: Jolene Clarke, DCEO, 620 E. Adams St., Springfield IL 62701, 217/557-1820.

LIFE REINSURANCE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments for "Life Rein-

(cont'd next page)

✎ CONTRACEPTIVES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed an amendment to "Pharmacy Practice Act of 1987" (68 Ill Adm Code 1330) requiring Division I pharmacies to display a notice of rights applicable to dispensing contraceptives. (A Division I pharmacy is one that engages in general community pharmacy practice and is open to, or offers pharmacy service to, the general public.) The rulemaking details the specific language to be utilized in the Notice of Rights sign, dictates that the sign must be on 8 1/2" x 11" paper, and requires the sign to include information concerning how an individual may file a complaint against the pharmacy, as prescribed in a DFPR-approved template available from the Department's website. The Notice of Rights must be clearly visible from the area where customers drop off prescriptions to be filled. Division I pharmacies will be affected by this rulemaking.

Questions/requests for copies/comments until 6/5/06: Barb Smith at the DFPR address on page 2, 217/785-0183, Fax 217/557-4451.

✎ PUBLIC ASSISTANCE

The DEPARTMENT OF HUMAN SERVICES proposed an amendment for "Aid to the Aged, Blind or Disabled"

(cont'd page 3)

NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

New Regulations

Insurance Agreements” (50 Ill Adm Code 1103), effective 4/6/06, to update statutory citations, add definitions reflecting that the former Department of Insurance is now a division within DFPR, and strike obsolete 1994 time frames. Also, accounting requirements are revised by striking references to obsolete forms.

Questions/requests for copies: Sara Ross, DFPR, 320 W. Washington, 3rd Fl., Springfield IL 62767-0001, 217/782-9760.

after completion of a vocational rehabilitation (VR) program, and can be expected to be employed during that period, in order to be eligible for such VR services. The rulemaking also updates the name of the federal Immigration and Naturalization Service to the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS). Those affected by this rulemaking include employers of noncitizens who participate in the VR program.

DHS also adopted amendments for “Application” (89 Ill Adm Code 557), effective 4/6/06, to stipulate that DHS does not pay for “incidental travel” to and from any DHS-DRS (Division of Rehabilitation Services) office. In addition, the rulemaking specifies that only Illinois residents are eligible for vocational rehabilitation (VR) services and that they must be available to plan, discuss, and implement those services. The amendments provide that the Department will make available a variety of resources to assist VR participants with their planning, problem-solving, and decision-making skills in order for them to make informed choices about their goals and services.

FOOD STAMPS

DHS adopted an emergency amendment for “Food Stamps” (89 Ill Adm Code 121), effective 4/6/06, for a maximum of 150 days. An identical proposed amendment appears in this issue of the *Illinois Register*. The emergency rulemaking increases the air conditioning/heating standard utility allowance from \$259 to \$299 and the limited standard utility allowance from \$155 to \$165. (The air conditioning/heating standard utility allowance is for households billed for (1) heating, air conditioning, or both or (2) heating, air conditioning, and electricity. The limited standard utility allowance is for households that are not billed for air conditioning or heating but are billed for at least 2 other utilities. The allowance constitutes a deduction from

monthly income that a food stamp applicant is allowed to offset against his or her monthly income when determining food stamp eligibility.) DHS has increased these allowances in compliance with federal Department of Agriculture (USDA) Food and Nutrition Service recommendations resulting from a 22% increase in the cost of natural gas.

Questions/requests for copies of the 4 DHS rulemakings above/comments concerning the proposed rulemaking until 6/5/06: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

UNIVERSITY RETIREMENT

The STATE UNIVERSITIES RETIREMENT SYSTEM adopted an amendment for “Universities Retirement” (80 Ill Adm Code 1600), effective 4/5/06, to implement procedures for voluntary deductions from annuities and disability benefits for contributions to a maximum 4 organizations of the SURS annuitant’s choice from among the organizations authorized to receive such contributions (e.g., United Way). Covered topics include authorization forms, authorization expiration date, and deduction limits. A change since 1st Notice reflects a recent statutory change by adding payment of fringe benefit contributions to employee benefit trust funds to the list of categories approved for voluntary deductions. Those affected by this rulemaking include the charitable organizations that receive the monies contributed from annuities and disability benefit payments.

Questions/requests for copies: Albert Lee, SURS, 1901 Fox Dr., Champaign IL 61820, 217/378-8855 or 217/378-7516.

VOCATIONAL REHABILITATION

The DEPARTMENT OF HUMAN SERVICES adopted an amendment for “Assessment for Determining Eligibility and Rehabilitation Needs” (89 Ill Adm Code 553), effective 4/6/06, to strike the requirement that a noncitizen of the United States must remain in the U.S.A. for a minimum of 90 days

LONG-TERM CARE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES modified an emergency amendment for “Long Term Care Reimbursement Changes” (89 Ill Adm Code 153) that originally became effective 1/1/06 for a maximum of 150 days to implement Public Act 94-697. An identical proposed rulemaking was published in the same 1/13/06 issue of the *Illinois Register*. The daily rates paid to providers of services to developmentally disabled persons by intermediate care facilities (ICF/MR) and skilled long-term care facilities for persons under age 22 (SNF/Ped) were increased by 2.69%, effective 1/1/06. This provision has been modified to 3%, effective 4/7/06, in response to a JCAR objection for the remainder of the 150-day period. Those affected by this modification include ICF/MR and SNF/Ped facilities.

HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to “Hospital Services” (89 Ill Adm Code 148), effective 4/10/06, for a maximum of 150 days to increase fiscal year 2006 “safety net adjustment payments” to the following 4 hospitals that are high-volume Medicaid service providers: Holy Cross, Michael Reese, and Sacred

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Heart in Chicago and St. Francis in Blue Island. An identical proposed rulemaking was published in the 3/10/06 issue of the *Illinois Register*.

Questions/requests for copies of the 2 DHFS rulemakings above: Joanne Scattoloni, DHFS, 201 S. Grand Ave. E.,

3rd Fl., Springfield IL 62763-0002, 217/524-0081.

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(AABD) (89 Ill Adm Code 113) to increase the grant adjustment and sheltered care, personal, and nursing care rate amounts by \$24 to match the federal January 2006 social security (SSA) benefit and supplemental security income (SSI) benefit increases. The grant adjustment and rate amounts are increased annually to reflect the federal increases in SSA and SSI benefits. These increased amounts are used as deductibles when calculating eligibility for AABD benefits. Those affected by this rulemaking include sheltered care homes.

Questions/requests for copies/comments until 6/5/06: Tracie Drew at the DHS address and telephone number above.

STATE EMPLOYEES

The DEPARTMENT OF HUMAN RIGHTS proposed an amendment to "Procedures of the Department of Human Rights" (56 Ill Adm Code 2520), which affects State employees, to require that hiring and promotion "monitors" (forms) be submitted to the Department of Central Management Services. The monitors apply to hires and promotions of all full and part-time permanent employees, including trainees, provisional employees, and semi-automatic promotions due to collective bargaining agreements. In the event that an agency equal employment officer (EEO) does not concur with the hire/promotion, the reason for the nonconcurrence must be attached. Provisions are added to require that EEOs and agency chief executive officers (CEO) sign the monitor prior to the effective date of the candidate's hire or promotion, with the CEO's signature indicating ap-

proval.

Questions/requests for copies/comments until 6/5/06: Brent A. Hartzman, DHR, 100 W. Randolph, Ste. 10-100, Chicago IL 60601, 31/814-1906, TTY 312/263-1579.

HAZARDOUS & SOLID WASTE

The POLLUTION CONTROL BOARD proposed amendments for "RCRA and UIC Permit Programs" (35 Ill Adm Code 702), "RCRA Permit Program" (35 Ill Adm Code 703), "UIC Permit Program" (35 Ill Adm Code 704), "Procedures for Permit Issuance" (35 Ill Adm Code 705), "Hazardous Waste Management System: General" (35 Ill Adm Code 720), "Identification and Listing of Hazardous Waste" (35 Ill Adm Code 721), "Standards Applicable to Generators of Hazardous Waste" (35 Ill Adm Code 722), "Standards Applicable to Transporters of Hazardous Waste" (35 Ill Adm Code 723), "Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities" (35 Ill Adm Code 724), "Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities" (35 Ill Adm Code 725), "Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities" (35 Ill Adm Code 726), "Land Disposal Restrictions" (35 Ill Adm Code 728), "Underground Injection Control Reporting Requirements" (35 Ill Adm Code 730), "Standards for Universal Waste Management" (35 Ill Adm Code 733), "Hazardous Waste Injection Restrictions" (35 Ill Adm Code 738), "Standards for the Management of Used Oil" (35 Ill Adm Code 739), "Solid

Waste Disposal: General Provisions" (35 Ill Adm Code 810), "Standards for New Solid Waste Landfills" (35 Ill Adm Code 811), "Information to be Submitted in a Permit Application" (35 Ill Adm Code 812) "Procedural Requirements for Permitted Landfills" (35 Ill Adm Code 813), and "Standards for Existing Landfills and Units" (35 Ill Adm Code 814) and proposed a new Part titled "Standards for Owners and Operators of Hazardous Waste Facilities Operating Under a RCRA Standardized Permit" (35 Ill Adm Code 727) to update hazardous waste and solid waste rules to reflect certain federal amendments adopted by the federal Environmental Protection Agency (USEPA) during the period from 7/1/05 through 12/31/05 and 3/23/06. Amendments to all Parts and also the new Part establish the framework by which USEPA or the State may allow for the filing of electronic documents to meet RCRA reporting requirements. Amendments to Parts 703, 720, 724, 725, and 726 require hazardous waste combustors to meet hazardous air pollutant emissions standards reflecting the performance of the maximum achievable control technology. Amendments to Parts 703, 720, 721, 724, 725, 728, and 733 add mercury-containing equipment to the list of universal wastes regulated under RCRA hazardous waste regulations. Amendments to Parts 702, 703, 705, 721, and 727 make standardized permits available to RCRA treatment, storage, and disposal facilities otherwise subject to RCRA permitting that generate and then store or non-thermally treat hazardous waste on-site in tanks, containers, and containment buildings. In addition, Part 721 amendments add benzene and 2-ethoxyethanol to the list of solvents

Proposed Regulations

whose mixture with wastewaters are exempted from the definition of hazardous waste under RCRA. Those affected by these rulemakings include entities that generate, transport, treat, store, or dispose of hazardous waste and entities that own or operate a municipal solid waste landfill.

Requests for copies/comments until 6/5/06: Dorothy Gunn, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620. Questions: Michael J. McCambridge at the same address, 312/814-6924, e-mail: mcambrm@ipcb.state.il.us. Please reference consolidated docket R06-16/R06-17/R06-18.

CONSTRUCTION AND DEMOLITION DEBRIS

PCB also proposed a new Part titled "Clean Construction or Demolition Debris Fill Operations" (35 Ill Adm Code 1100) implementing Public Act 94-272, which states that "clean construction or demolition debris" (CCDD) is not considered waste if it is separated and returned to the economic mainstream in the form of raw materials or products within 4 years of its generation or if it is used as fill material within 30 days of its generation. The proposed new Part defines terms; sets forth the standards applicable to the operation of CCDD facilities, load inspections, closure and postclosure plans, including recordkeeping requirements and annual reports; prescribes the information an applicant must include in the permit application; and sets forth the procedural rules that the Environmental Protection Agency and applicant must follow for permitting. Those affected by this rulemaking include small businesses that generate or use CCDD as fill material in

any mine, quarry, or other excavation.

Requests for copies/comments until 6/5/06: Dorothy Gunn, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620 or download copies at www.ipcb.state.il.us. Questions: Amy Antonioli at the same address, 312/814-3665, e-mail: antonioa@ipcb.state.il.us. Please reference docket R06-19.

STATE EMPLOYEES

The Department of Central Management Services withdrew proposed amendments for "Pay Plan" (80 Ill Adm Code 310) that were published in the 3/17/06 *Illinois Register* and replaced them with amendments proposed this week. The new rulemaking updates the various rates of pay for collectively bargained positions for fiscal year 2007 based on agreements with various entities (e.g., Teamsters, American Federation of State, County and Municipal Employees (AFSCME), Illinois Federation of Public Employees, etc.). The affected State agencies are the departments of Central Management Services, Corrections, Employment Security, Human Services, Natural Resources, State Police, Transportation, and Veterans Affairs. For example, the agreement between the Illinois Federation of Teachers, AFL-CIO Local 919, CMS, and Human Services pertains to teachers of the deaf, and the agreement between AFSCME, AFL-CIO, CMS, and Corrections pertains to Corrections meet-and-confer employees. CMS also proposes to remove prior fiscal year rates from the rule and add a designated pay rate approved by the Governor for a senior public service administrator at the Illinois Gaming Board in the Department of Revenue with an annual salary of \$133,104. For positions that are col-

lectively bargained, the rulemaking replaces the term "extra duty pay" with "temporary assignment pay" and clarifies how the pay will be calculated. Additionally, the rulemaking strikes superior performance increases for positions that are collectively bargained. The rulemaking also strikes salary ranges for out-of-state or foreign service rates because an adopted rulemaking previously proposed in January puts new rates into effect on 4/17/06 (see the 4/28/06 *Illinois Register* or *Flinn Report*). A new provision describes the comparison of pay grades or salary ranges assigned to classifications. Additional changes clarify definitions, delete specific obsolete effective dates, and update references to the fiscal year. For example, an amendment clarifies that a commission, incentive pay, bilingual pay, and longevity pay are not included in the definition of "base salary". These newly proposed amendments match the amendments CMS withdrew with the exception of amendments pertaining to merit compensation, which are not part of the text proposed this week. Excluded amendments replaced "extra duty pay" with "temporary assignment pay" for merit compensation positions, struck procedures for determining annual and intermittent merit compensation increases, struck the FY 2006 guide chart for annual merit compensation increases, and struck the performance-related objective of the merit compensation system.

Questions/requests for copies/comments until 6/5/06: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, Fax 217/524-4570.

Second Notices

The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's May 9, 2006 meeting in Chicago.

DEPARTMENT OF PUBLIC HEALTH

"Local Health Protection Grant Rules" (77 Ill Adm Code 615) proposed 11/14/05 (29 Ill Reg 18269)

STATE BOARD OF ELECTIONS

"Practice and Procedure" (26 Ill Adm Code 125) proposed 12/16/05 (29 Ill Reg 20143)

PROPERTY TAX APPEAL BOARD

"Practice and Procedure for Appeals Before the Property Tax Appeal Board" (86 Ill Adm Code 1910) proposed 2/10/06 (30 Ill Reg 1816)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Pay Plan" (80 Ill Adm Code 310) proposed 2/17/06 (30 Ill Reg 1937)

JCAR 2005 ANNUAL REPORT

The Joint Committee on Administrative Rules' 2005 annual report is now available. The report summarizes agency rulemaking, JCAR actions, and public act reviews in addition to legislative and judicial actions that affected rulemaking.

Copies of the 2005 Annual Report of the Joint Committee on Administrative Rules are available to the public. The volume may be ordered for \$2.61 (\$4.20 with postage included) by sending a check to JCAR at the address listed on the front of this newsletter. It is also available online at our website at www.ilga.gov/commission/jcar

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